



OFFICE OF PUBLIC AND INDIAN HOUSING

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
WASHINGTON, DC 20410-5000

Ms. Lourdes M. Castro Ramirez, MA  
Secretary  
Business, Consumer Services and Housing  
Agency  
500 Capitol Mall, Suite 1850  
Sacramento, CA 95814

Dr. Mark Ghaly, MD, MPH  
Secretary  
California Health & Human Services  
Agency  
1215 O Street  
Sacramento, CA 95814

**RE:           RESPONSE TO QUESTIONS RE: THE STATE OF CALIFORNIA'S  
GUARANTEED INCOME PILOT PROGRAM**

Dear Ms. Ramirez and Dr. Ghaly:

The U.S Department of Housing and Urban Development (the "Department" or "HUD") received your April 29, 2022, joint request for a waiver of 24 Code of Federal Regulations (CFR) 5.609 for individuals participating in the State of California's Guaranteed Income Pilot Program ("Pilot Program") who also benefit from HUD-funded rental assistance. You explain in your request that the Pilot Program will provide monthly income supplements to approximately 900 individuals across the state, many of whom are likely to be assisted under the public housing, Housing Choice Voucher, Project-Based Rental Assistance, or other HUD assisted-programs. You seek HUD approval for a waiver to deduct or exclude the Pilot Program payment from the annual income for any individual who is assisted under a HUD assistance program subject to 24 CFR 5.609, for a period of 2 calendar years.

HUD declines your request to provide a waiver. While HUD may consider requests for waivers of regulation on a case-by-case basis, such waivers must come from the regulated entity. In this case, the regulated entity under 24 CFR 5.609 is the entity performing a family's income determination (e.g., a public housing agency (PHA), Multifamily Owner, etc.).

In considering your request, HUD identified several options that regulated entities may use to mitigate the effects that Guaranteed Income Pilot Program payments would otherwise have on participating families' annual and adjusted incomes. These options are described below and may be implemented by PHAs and/or owners without requesting or receiving a waiver.

The Housing Opportunity Through Modernization Act of 2016 (P.L. 114-201) (HOTMA) was signed into law on July 29, 2016. HOTMA made changes to the law for public housing, the Section 8 Housing Choice Voucher Program, and the Section 8 project-based rental assistance program, including changes related to the calculation of income and the applicable circumstances for deductions. The HUD rule implementing these changes goes into effect on January 1, 2024. When the HOTMA rule goes into effect, some of the rules around exclusions from income and deductions will change. As a result, the options identified by HUD are presented according to those that are applicable now and those that will apply as of January 1, 2024.

**Flexibilities prior to HOTMA effective date:**

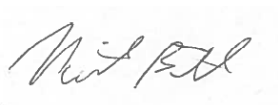
- Flexibilities available to PHAs and Multifamily Owners and Operators. PHAs and Multifamily Owners and Operators who assist residents participating in the Pilot Program may exclude Pilot Program payments from income by treating the payments as "temporary income" under 24 CFR § 5.609(c)(9). PHAs and Multifamily Owners and Operators may do so until the first income examination such a household undergoes on or after January 1, 2024.
- Flexibilities available only to PHAs. PHAs may establish a permissive deduction for Pilot Program payments under the public housing program under 24 CFR § 5.611(b).

**Flexibilities beginning on HOTMA effective date:**

- Flexibilities available to PHAs and Multifamily Owners and Operators. Beginning with the first income examination a household that is receiving Pilot Program payments undergoes after January 1, 2024:
  - o PHAs and Multifamily Owners and Operators may exclude Pilot Program payments from consideration as income in the final year of the Pilot Program, if the Pilot Program will not continue to provide payments to participants after that year.<sup>i</sup>
  - o Alternatively, PHAs and Multifamily Owners and Operators may calculate family income by using certain other programs<sup>ii</sup> determination of income, as long as those determinations are made within the previous 12-month period by one of the programs listed in the version of 24 CFR 5.609(c)(3) as effective with HOTMA changes on January 1, 2024. PHAs and Multifamily Owners and Operators may rely on these determinations even if the other programs waive consideration of Pilot Program payments in assessing participant eligibility.
- Flexibilities available only to PHAs. Under 24 CFR § 5.611(b)<sup>iii</sup>, PHAs may establish or continue a permissive deduction for Pilot Program payments under the public housing program, Housing Choice Voucher program, and Moderate Rehabilitation program, but should note that the PHAs will not receive additional subsidies to account for reduced tenant rents.

Should you have any questions regarding the Public Housing and Housing Choice Voucher program, please contact Ryan Jones at [Ryan.E.Jones@hud.gov](mailto:Ryan.E.Jones@hud.gov). Should you have any questions regarding Multifamily Housing, please contact Jennifer Lavorel at [Jennifer.C.Lavorel@hud.gov](mailto:Jennifer.C.Lavorel@hud.gov).

Sincerely,



Nick Bilka  
Acting Director  
Office of Housing Voucher Programs

**CHRISTIE  
NEWHOUSE**

Christie Newhouse  
Acting Director  
Office of Asset Management and Portfolio Oversight

Digitally signed by: CHRISTIE NEWHOUSE DN:  
CN = CHRISTIE NEWHOUSE C = US  
U.S. Government OU = Department of  
Housing and Urban Development, Office of  
Housing  
Date: 2023.04.20 11:32:57 -05'00'

---

<sup>i</sup> 24 CFR § 5.609(b)(24), as effective with HOTMA changes on January 1, 2024.

<sup>ii</sup> The PHA or owner may, using the verification methods in paragraph (c)(3)(ii) of this section, determine the family's income prior to the application of any deductions applied in accordance with § 5.611 based on income determinations made within the previous 12-month period for purposes of the following means-tested forms of Federal public assistance:

- (A) The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- (B) Medicaid (42 U.S.C. 1396 et seq.).
- (C) The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- (D) The Earned Income Tax Credit (26 U.S.C. 32).
- (E) The Low-Income Housing Credit (26 U.S.C. 42).
- (F) The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).
- (G) Supplemental Security Income (42 U.S.C. 1381 et seq.).
- (H) Other programs administered by the Secretary.
- (I) Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding.
- (J) Other Federal benefit determinations made in other forms of means-tested Federal public assistance that the Secretary determines to have comparable reliability and announces through the Federal Register." 24 C.F.R. § 5.609, as effective with HOTMA changes on January 1, 2024.

<sup>iii</sup> As effective with HOTMA changes on January 1, 2024.